

June 25, 2008

TO: Interested Parties

FROM: Anthony Marple, Director, MaineCare Services

SUBJECT: Emergency Rule: MaineCare Benefits Manual, Chapter II, Section 2, Adult Family Care Home Services

This letter gives notice of emergency rulemaking: MaineCare Benefits Manual, Chapter II, Section 2, Adult Family Care Home Services. The Department has determined that the immediate adoption of these rules is necessary to avoid an immediate threat to public health, safety or general welfare.

Emergency adoption of this rule will assure access to Adult Family Care Home services for MaineCare members who otherwise may require immediate placement in an institutional setting in order to receive medically necessary services.

This emergency rule will increase the limit of reimbursable beds in an Adult Family Care Home from six to eight beds. This rule will also add an additional type of licensure that Adult Family Care Homes may have in order to be reimbursed appropriately when the facility has more than six beds. Currently Adult Family Care Homes must be licensed as an Assisted Housing Program: Level III Residential Care Facility. Those facilities with more than six beds will require licensure as an Assisted Housing Program: Level IV Residential Care Facility.

These emergency rules will remain in effect for ninety days. The Department will permanently adopt these changes through a proposed rulemaking, and will hold a public hearing as part of that separate rulemaking.

Rules and related rulemaking documents may be reviewed at and printed from the Office of MaineCare Services website at, http://www.maine.gov/dhhs/bms/rules/provider_rules_policies.htm or for a fee, interested parties may request a paper copy of rules by calling 207-287-9368. For those who are deaf or hard of hearing and have a TTY machine, the TTY number is 1-800-423-4331.

A concise summary of the proposed rule is provided in the Notice of Agency Rule-making Proposal. This notice also provides information regarding the rule-making process. Please address all comments to the agency contact person identified in the Notice of Agency Rule-making Proposal.

Notice of Agency Rule-making Adoption

AGENCY: Department of Health and Human Services, MaineCare Services

CHAPTER NUMBER AND TITLE: MaineCare Benefits Manual, Chapter II, Section 2, Adult Family Care Home Services

ADOPTED RULE NUMBER:

CONCISE SUMMARY: The Department has determined that the immediate adoption of these rules is necessary to avoid an immediate threat to public health, safety or general welfare. Emergency adoption of this rule will assure access to Adult Family Care Home services for MaineCare members who otherwise may require immediate placement in an institutional setting in order to receive medically necessary services.

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See http://www.maine.gov/bms/rules/provider_rules_policies.htm for rules and related rulemaking documents.

EFFECTIVE DATE: July 1, 2008 – September 28, 2008

AGENCY CONTACT PERSON: Patricia Dushuttle
AGENCY NAME: Division of Policy and Performance
ADDRESS: 442 Civic Center Drive
11 State House Station
Augusta, Maine 04333-0011
TELEPHONE: (207)-287-9362 FAX: (207) 287-9369
TTY: 1-800-423-4331 or 207-287-1828 (Deaf/Hard of Hearing)

10-144 CH. 101
MAINECARE BENEFITS MANUAL
CHAPTER II

SECTION 2	ADULT FAMILY CARE SERVICES	Established 5/6/96 Last Updated 7/1/08
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2.01 DEFINITIONS

2.01-1 **Activities of Daily Living (ADLs)** include bed mobility, transfer, locomotion, dressing, eating, toilet use, bathing, personal hygiene, and walking.

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2.01-2 **Adult Family Care Home (AFCH)** means a residential style home for ~~six~~ eight or fewer residents, which is licensed by the Department pursuant to the Regulations Governing the Licensing and Functioning of Assisted Housing Programs: Level III Residential Care Facilities; or Assisted Housing Programs: Level IV Residential Care Facilities and is primarily engaged in providing services to the elderly.

2.01-3 **Adult Family Care (AFC) Services** include personal care services such as: assistance with activities of daily living and instrumental activities of daily living, personal supervision, protection from environmental hazards, diversional and motivational activities, dietary services and care management, as further defined in the Regulations Governing the Licensing and Functioning of Assisted Housing Programs: Level III Residential Care Facilities; or Assisted Housing Programs: Level IV Residential Care Facilities.

2.01-4 **Cueing** means any spoken instruction or physical guidance that serves as a signal to do a specified activity. Cueing is typically used when caring for individuals who are cognitively impaired.

2.01-5 **Department** means the Maine Department of Health and Human Services (DHHS).

2.01-6 **Individual Service Plan (ISP)** means a written service plan developed with a resident based upon an assessment of the resident's needs and abilities, and including (as appropriate) habilitative or rehabilitative goals and objectives, program goals and objectives, and the resources and methods necessary to implement the plan.

2.01-7 **Instrumental Activities of Daily Living (IADL)** include main meal preparation; routine housework; grocery shopping and storage of purchased groceries; and laundry either within the residence or at an outside laundry facility.

2.01-8 **MaineCare Weight** is the resource group weight applied to each resource group to calculate the resource-adjusted price for each member residing in the adult family care home.

2.01-9 **Member** is an individual who is deemed eligible for MaineCare service

10-144 CH. 101
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2.04 COVERED SERVICES (cont.)

member's record (See Section 2.07-2), together with recommendations of the RN concerning the health care of the member.

2. Professional Private Duty Nursing Services, as set forth in Section 96 of this Manual, may be provided to a member directly by an AFC services provider who is an RN and who is enrolled as a MaineCare provider. The member's nursing services must be authorized and signed by the member's physician every 60 days and maintained in the member's medical record in the facility. Services shall be delivered and billed in accordance with the requirements of Chapter II, Section 96.

2.04-2 Service setting

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In order to qualify for reimbursement under this Section, AFC services must be delivered in either a Level III Residential Care Facility or Assisted Housing Program; Level IV Residential Care Facility. ~~licensed pursuant to the Department's Regulations Governing the Licensing and Functioning of Assisted Housing Programs; Level III Residential Care Facilities and enrolled in the MaineCare program.~~

2.05 LIMITATIONS

- 2.05-1 Duplication of services is not allowed. It is the responsibility of the AFC services provider to coordinate services with other "in-home" services to address the full range of a member's needs. Other MaineCare-covered services must not duplicate AFC covered services. For example, if a member receives Section 96, Private Duty Nursing and Personal Care Services; or Section 40, Home Health Services; or Section 19, Home and Community-Based Benefits for the Elderly and Adults with Disabilities, or Section 43, Hospice Services, all personal care services shall be delivered by the AFC services provider and not by a Certified Nursing Assistant (CNA), Home Health Aide (HHA), Personal Care Attendant (PCA) or Personal Support Specialist (PSS) as otherwise allowed in these Sections.
- 2.05-2 Private Duty Nursing Services and Personal Care Services are subject to financial "caps" as described in Section 96, Private Duty Nursing and Personal Care Services.) For members who receive Private Duty Nursing services, the cost of AFC services and Private Duty Nursing services combined must not exceed the member's approved Private Duty Nursing and Personal Care Services "cap." It is the responsibility of the Private Duty Nursing provider to monitor the cost of services and stay within the "cap."